
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

MARVIN T. RODRIGUEZ,

Plaintiff,

versus

DEPARTMENT OF JUSTICE, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:09-CV-212

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Marvin T. Rodriguez, a prisoner previously confined at the United States Penitentiary in Beaumont, Texas, proceeding *pro se*, filed this civil action pursuant to *Bivens v. Six Unknown Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and the Federal Tort Claims Act.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the action without prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Plaintiff states that he initiated, but did not complete, the

administrative remedy process. Because he did not exhaust administrative remedies before filing this lawsuit, the case should be dismissed.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 14th day of July, 2009.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE